

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on February 16, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Debby Barrett (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: None.

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 512, HB 529, HB 544
02/16/01.
Executive Action: HB 506, HB 524.

EXECUTIVE ACTION ON HB 506

{Tape : 1; Side : A; Approx. Time Counter : 4}

Motion: REP. BOOKOUT-REINICKE moved that HB 506 DO PASS.

Discussion:

Rep. Bookout-Reinicke moved amendment for HB 503, on Page 1, Line 29, Strike "5 years", Insert "1 year". **EXHIBIT(trh39a01)**.

Motion/Vote: REP. BOOKOUT-REINICKE moved that **AMENDMENT FOR HB 506, #HB050601.ALK DO PASS. Motion carried 18-0.**

Motion/Vote: REP. HEDGES moved that **HB 506 DO PASS AS AMENDED. Motion carried 11-7 with Adams, Barrett, Devlin, Hedges, Somerville, Steinbeisser, and Waitschies voting no.**

HEARING ON HB 529

Sponsor: Rep. Jeff Pattison, HD 95.

Proponents: Bob Stephens, Montana Grain Growers Association and Montana Farm Bureau and Montana Stock Growers; Rep. Don Steinbeisser, HD 100; Barry "Spook" Stang, Montana Motor Carriers Association; Rep. Matt McCann, HD 92; Rep. John Musgrove, HD 91.

Opponents: none.

Informational Witnesses: Dave Galt, Director of Montana Department of Transportation.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 11}

Rep. Pattison said HB 529 does four things. One is to equalize the weight limit and axle limit that a vehicle can carry, cleaning up the confusion of two weight standards, 7%-10%. Second, it modifies the 50 miles a farm vehicle may travel from the harvested field to 100. Third, eliminate the 40-mile per hour limitation on the farm vehicles. Last, clean up of this vehicle code's subsection (4). **EXHIBIT(trh39a02)**.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 17.3}

Bob Stephens said this bill is important to grain hauling and cattle hauling. He said they support HB 529.

Rep. Steinbeisser said he supports this bill, the rate of 7-10% is a good idea.

Barry "Spook" Stang said they support HB 529, with the consistency this will make it a lot better to enforce the laws.

Rep. McCann said he supports this bill and asked to make some adjustments to the bill. He said in the penalty section, you should change the language from "may" to "shall".

Rep. Musgrove said he agrees with what the proponents said. He supports HB 529.

Opponents' Testimony: none.

Informational Witnesses' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 23.6}

Dave Galt said there are two tolerances on this bill. First, page 1, from 7-10%, there is no enforcement on that activity, basically, it is a tolerance from getting a citation and seeing the judge. He said the 100 mile radius and speed limit are tolerances and only allowed on state highways and not allowed on the interstate system. In the last fiscal year, July 1999-June of 2000, the motor carrier services officers issued 1571 \$10.00 permits.

Questions from Committee Members and Responses:

Rep. Juneau asked **Brenda Nordlund, Department of Justice**, if young children are allowed to drive these trucks on the highway, carrying these products under these provisions. **Ms. Nordlund** said the age is 15 if they have had drivers' education, if not the age is 16 to drive. She said there is not a special permit for Agriculture in this area, but hardship permits are not issued because of hauling farm products, they are issued because of extraordinary personal circumstances that a family might have.

{Tape : 1; Side : B; Approx. Time Counter : 3.3}

Rep. Keane asked **Mr. Galt** if highway damage increases going from 7% to 10%. **Mr. Galt** said there will be an increase in highway damage, if a truck is overweight between 0-7%, there is a \$10 permit to go to the nearest facility to become legal. He said if

over 7%, up to 10,000 pounds, they get a citation and a permit to the nearest facility to become legal.

{Tape : 1; Side : B; Approx. Time Counter : 8}

Chairman Somerville asked **Mr. Galt** what the main reason is for limits on the roads and why there are speed limits on heavy trucks that are on these roads. **Mr. Galt** said to protect the paved road system they limit the speed below the posted speed limit, and that limit is considerably above what a farm truck would go in 20% tolerance. He said when the trucks reach a certain point, the trucks exceed their tire capacity.

Rep. Keane asked **Rep. Pattison** why the increase from 7%-10%.

Rep. Pattison said this deals with bulk material, and it allows a little extra for farmers to haul as much as they can within the legal limit.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 13}

Rep. Pattison said, concerning the road damage, there would be some, but not a lot. He urges a Do Pass on HB 529.

HEARING ON HB 544

Sponsor: Rep. Roger Somerville, HD 72.

Proponents: Dean Roberts, Administrator of Motor Vehicle Division for Department of Justice; Brenda Nordlund, Department of Justice; Senator David Steele, Utah; Jan Van Riper, State Auditors Office; Robert Throssel, Montana County Treasure's Association; Joe Mazurek, InsureRite.

Opponents: Barry "Spook" Stang, Montana Motor Carriers Association; Greg VanHoersen, State Farm Insurance; Jon Metropoulos, Farmers Insurance Group and National Association of Independent Insurers; Jacqueline Lenmark, American Insurance Association; Roger McGlenn, Independent Insurance Agents Association.

Opening Statement by Sponsor:

Rep. Somerville said this bill is a concept that will solve an issue of uninsured motorists problem. He said about a quarter of drivers in Flathead County and in Montana are uninsured. This bill is a different approach to this problem, it is based on a

concept of the operation in Utah. In Utah, their uninsured motorists rate was 23% and now the percent of uninsured motorists is down to 8%.

Proponents' Testimony:

Dean Roberts said they have dealt with the uninsured motorists issue for a number of years. He said the estimate of uninsured motorists from 1992 to date is around 20-30%. This legislation focuses on the identity of the law breaker. The law states, in Montana, there has to be liability insurance on the vehicle. He handed out letters from Fonda Henson Workman and Edward Frohlich in support of HB 544. **EXHIBIT(trh39a03)**, **EXHIBIT(trh39a04)**.

{Tape : 2; Side : A; Approx. Time Counter : 5.6}

Brenda Nordlund explained an amendment they proposed. **EXHIBIT(trh39a05)**. She said this bill is intended to identify those people that are not carrying insurance on their vehicle. She urges support of HB 544.

{Tape : 2; Side : A; Approx. Time Counter : 11.3}

Senator Steele said he is the chairman of Transportation, Public Health and Safety. He said the concept of merging databases from various different sources, and looking at the statistics from Utah, there are many more insurance policies written up. He said this Database works, and protects law abiding citizens.

Jan Van Riper said they support HB 544, this will help to reduce the number of uninsured motorists on the road and the cost to those law abiding people.

Robert Throssel said the Treasurers are in the position of collecting the one dollar fee as they collect the other fees. They support HB 544.

{Tape : 2; Side : A; Approx. Time Counter : 19.5}

Joe Mazurek said he appears here today on behalf of InsureRite, which is the company in Utah that operates the Utah Program. He said this is called the Uninsured Motorists Compliance Act and this identifies people that do not have insurance and then they can enforce the law they have. He handed out a letter from an audit of Uninsured Motorists Identification Database Program in Utah, **EXHIBIT(trh39a06)**, also a letter of support from the Department of Public Safety in Utah, **EXHIBIT(trh39a07)**, and a letter of support talking about the importance of this database in Utah for law enforcement, **EXHIBIT(trh39a08)**.

Opponents' Testimony:

Barry "Spook" Stang said, as the bill is written, they oppose it, but if the amendments are passed that are handed out from the Department, excluding fleet vehicle registrations, they would support this bill.

Greg VanHoersen said State Farm Insurance opposes this bill, this appears to be a very expensive program and it does not appear, as of yet, that figures can support the position that the program from Utah is successful. He handed out a report from the Transportation Interim Committee from July 21, 1999, **EXHIBIT (trh39a09)**, also figures from Montana and Utah of uninsured motorists, **EXHIBIT (trh39a10)**, and a letter from the Insurance Industry Committee on Motor Vehicle Administration, **EXHIBIT (trh39a11)**, of an Uninsured Motorist Study.

{Tape : 2; Side : B; Approx. Time Counter : 0.3}

Jon Metropoulos said they oppose HB 544. He said this bill, as written, would require insurance companies to transfer their proprietary business information to another private company. He said his concern is that a contractor would suffer a penalty for knowingly disclosing or releasing that information. He said there is no provision in this act to prevent a contractor from using that information himself. He said he has suggested amendments he will bring in for the bill.

Jacqueline Lenmark said they oppose HB 544. She said the cost of this program for the State of Montana is a concern, this will raise the cost for companies in the market.

Roger McGlenn said they have been contacted by agents in Utah and they have mixed reports. **EXHIBIT (trh39a12)**. They oppose HB 544.

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 13.3}

Rep. Price asked **Senator Steele** what the Governor of Utah's original objection was. **Senator Steele** said it was what the cost or burden of this would be. There was no mention of additional costs to an insurance company who wrote insurance costs for the State of Utah.

Rep. Balyeat said to **Senator Steele** that they have looked at two or three different ways this session to address the problem of uninsured motorists. He said this bill compares registered licensed vehicles to insurance records. He asked **Senator Steele**

if people cannot afford insurance, would they then not register their vehicles. **Senator Steele** said the reality of mandatory insurance, if passed by the legislature, is the law.

Rep. Gallik asked **Senator Steele**, in response to Mr. VanHoersen's experience with Utah statistics and Utah's experience, to explain his concerns on the issue. **Senator Steele** said with the acceptance of this program, they know, in Utah, who has a registered vehicle and if that vehicle has insurance.

Rep. Bookout-Reinicke asked **Dean Roberts** how many uninsured people have been injured in the State of Montana. **Dean Roberts** said, bodily injury coverage pays for the insurance drivers' legal liability for bodily injury caused to someone else through ownership, maintenance or use of a vehicle up to the policy limit specified.

{Tape : 2; Side : B; Approx. Time Counter : 29.4}

Closing by Sponsor:

Rep. Somerville said this is the time to look at this important issue, and to prosecute those individuals who are breaking the law by not having insurance on their vehicle. He said the program will have a one dollar fee attached to the license registration.

{Tape : 3; Side : A; Approx. Time Counter : 0.3}

HEARING ON HB 512

Sponsor: Rep. Roger Somerville, HD 78.

Proponents: Eric Hummel, Attorney in Kalispell; Brenda Nordlund, Department of Justice; Colonel Bert Obert, Montana Highway Patrol; Charles Brooks, Yellowstone County;

Opponents: Mike Barrett, self.

Informational Witnesses: none.

Opening Statement by Sponsor:

Rep. Somerville said this bill is a policy issue of what to do with an individual who refuses to submit to a blood/alcohol or

breath or urine test when requested to do so. He said this bill will provide an additional penalty which can be used to punish those individuals who decide to drink and drive. The statistics of accidents in Montana that involved alcohol are around 36%, and include 35 deaths last year in Montana.

Proponents' Testimony:

Eric Hummel said he prosecuted, in over 3 years, approximately 300 plus misdemeanors. The situation he encountered, for the repeat offenders, is that after the first DUI, they blow into the intoxilizer, and the Blood, Alcohol concentration is over .10, they realize that they do not have to submit to the tests. If an officer pulls someone over, and they refuse to submit to a blood test or a breath test, the Department of Justice Motor Vehicle Division can suspend the individuals' drivers license. The problem with this is, those people keep driving without a drivers license and they don't care that they are driving with a suspended drivers license. The intent of this bill is to penalize people criminally who refuse to submit to a breath test or a blood test. This bill would offer law enforcement officers and prosecutors an important tool in prosecuting drunk drivers. He said, on Line 13 of the bill, he would encourage to strike the word, "urine", because urine tests have been altered.

Brenda Nordlund said they would be asked to administer the driver's license suspensions that would be incident to this bill. She explained the number of the possible criminal refusals that they could be encountering in the next year. She said in 1999, 1410 individuals refused to submit to a chemical test upon being arrested for a DUI. There are relative numbers for refusals in Montana in the year 2000. There were 2728 DUI's for first offense, 902 DUI's as a second or subsequent offense, and 230 felony DUI's. These are strictly convictions for driving under the influence. She urges support of HB 512.

Colonel Bert Obert said they support HB 512. He said this bill gets law enforcement closer to the goal of stopping DUI's and stopping people from killing others when they are intoxicated. The Montana Highway Patrol arrested 2,275 DUI's in the year 2000. He said 550 of those people refused a test, which makes it difficult for prosecution to do their job.

Charles Brooks said in Minnesota they have cut their District Court cases by 30% by this type of legislation. He supports HB 512.

Opponents' Testimony:

Mike Barrett said he is not opposing the intent of control in regulations and procedure. **EXHIBIT(trh39a13)**.

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 22.6}

Rep. Smith asked **Mr. Hummel** how many DUI's had no drivers' license. **Mr. Hummel** said in his experience with the repeat DUI offenders, roughly a third.

Rep. Hedges asked **Mr. Hummel**, in this proposed legislation, if the 30% reduction in court cases is because they are sent directly to jail. **Mr. Hummel** said he thinks there would be a reduction in cases going to trial.

Rep. Gallik asked **Mr. Hummel** if there is still, in the State of Montana, the legal ability to have an open container of alcohol in a car. **Mr. Hummel** said his understanding is that municipalities are able to enact local ordinances prohibiting open containers. He said outside city limits in Montana, there is not an open container law.

Rep. Gallik asked **Colonel Obert** if it is mandatory for a person to take a breath test for alcohol, when they have recently consumed a heavy concentration of alcohol. **Colonel Obert** said there is a mandatory requirement for all stops, if alcohol related. He said before any chemical tests can be administered, a 15 minute deprivation period is required. During that 15 minute period, the alcohol is out of the mouth and into the individuals stomach at that point, so the blood alcohol test would not change after that period.

{Tape : 3; Side : B; Approx. Time Counter : 0.3}

Rep. Devlin asked **Colonel Obert** if a police officer can take a person to the police station under the suspicion of a DUI, and if they refuse to take the chemical tests, are they filmed. **Colonel Obert** said a person may refuse to take the tests, but the officer can take that person back to the station to do tests, which is an intoxicilizer. The highway patrol has "in car" video cameras, so they have the initial appearance of the person and in the station they have a video also.

Rep. Juneau asked **Ms. Nordlund** if this law pertains to children under 18, who have a DUI. **Ms. Nordlund** said this law only applies to 61-8-402, they have to be arrested for the DUI or they can be arrested under 61-8-410 for underage driving, which includes those who are under the age of 21, may not operate a

motor vehicle with an alcohol concentration of in excess of .02 blood alcohol content.

Rep. Barrett asked **Colonel Obert** about the 15 minute deprivation period after a person consumes alcohol and if the police officers adhere to the 15 minutes by noting on the report what time the person was arrested, and what time the test was administered. **Colonel Obert** said yes, the officer waits for 15 minutes after they get to the police station.

Closing by Sponsor:

Rep. Somerville handed out a letter from **Joan S. Borneman, Office of the County Attorney of Anaconda-Deer Lodge County** supporting HB 512. **EXHIBIT(trh39a14)**. He said this is a bill that will help get people driving under the influence off the roads.

{Tape : 3; Side : B; Approx. Time Counter : 20.4}

EXECUTIVE ACTION ON HB 524

Motion: REP. HEDGES moved that HB 524 DO PASS.

Discussion:

Motion: REP. GALLUS moved that AMENDMENT FOR HB 524, #HB 052401.ALK DO PASS.

Leanne Kurtz explained the amendment for HB 524. **EXHIBIT(trh39a15)**.

Motion/Vote: REP. GALLUS moved that AMENDMENT #HB052401.ALK DO PASS. Motion carried 18-0.

Motion/Vote: REP. GALLUS moved that HB 524 DO PASS AS AMENDED. Motion carried 16-2 with Adams and Balyeat voting no.

ADJOURNMENT

Adjournment: 6:30 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT (trh39aad)